Sir John Winter's

OBSERVATIONS

Upon the

OATH

Enacted 1. *Eliz.* Commonly called,

THE OATH OF

SUPREMACY.

For the better satisfaction of those that may find themselves concerned therein.

LONDON,

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Obſervations upon the *OATH* Enacted 1. *Eliz.* commonly called, *The Oath of SUPREMACY.*

BY the Oath of Supremacy Enacted by *Henry* the Eighth, the ſaid King was ſworn to be Supreme Head of the Church of *England.* Which Title was of ſo great offence and ſcandal, even to ſome of thoſe that then profeſſed the Reformed Religion, that they writ Invectives againſt the ſame, as Roman Catholicks alſo did, and ſundry perſons loſt their lives in thoſe daies for denial thereof, as is written of Sir *Thomas More,* and others.

But that Oath was afterwards aboliſht by Parliament, with ſome other Statutes relating thereunto: And in the firſt year of Queen *Elizabeth* the enſuing Oath was enjoyned by an Act then Entituled (*All ancient Juriſdiction reſtored to the Crown, and all forreign Power aboliſhed*) the words of which Oath are as followeth,

I A. B. *do utterly teſtifie and declare in my conſcience, that the Queens Highneſſe is the only Supreme Governour of this Realm, of all other her Highneſſes Dominions and Countreys, as well in all Spiritual or Eccleſiaſtical things or Cauſes, as temporal, &c. That no forreign Prince, Perſon, Prelate, State or Potentate, hath, or ought to have any Juriſdiction, Power, Superiority, Prehemi-nence, or Authority Eccleſiaſtical or Spiritual within this Realm, and therefore I do utterly renounce and forſake all forreign Juriſ-dictions, Powers, Superiorities, and Authorities, and do promiſe that from henceforth I ſhall bear faith and true Allegiance to the*

Queens Highneſs, her Heirs and lawful Succeſſors, and to my Power ſhall aſſiſt and defend all Juriſdictions, Priviledges, Prehemineneſs and Authorities granted or belonging to the Queens Highneſs, her Heirs and Succeſſors, or united and annexed to the Imperial Crown of this Realm. So help me God, and by the Contents of this Book.

Although the words of this Oath are not the ſame as in the former, *and Supreme Head of the Church of England* not particularly mentioned therein, yet according to the common acceptation of the words in the ſaid Oath, it ſeemed to attribute to her ſaid Majeſty in effect and ſubſtance no leſs ſpiritual Juriſdiction and power; (nay more) than what the ſaid former Oath did or might import, Wherefore this Oath was alſo excepted at by divers. In which conſideration, and for the clearing of doubts that might be conceived thereupon, her Majeſty by an *Admonition* in her *Injunctions* publiſhed afterwards in the ſaid firſt year of her Reign, did explain and interpret the ſenſe and meaning of the words of the ſaid Oath, in which the ſame ſhould from thenceforth be accepted and taken. The *Admonition* and *Title* is as followeth.

An Admonition to Simple men deceived by malicious.

The Queens Majeſty being informed, that in certain places of the Realm ſundry of her native Subjects being called to Eccleſiaſtical Miniſtery in the Church, be by ſiniſter perſwaſion, and perverſe conſtruction, induced to find ſome ſcruple in the form of an Oath, which by an act of the laſt Parliament is preſcribed to be required of divers perſons for the Recognition of their Allegianee to her Majeſty, which certainly never was ever meant, nor by any equity of words or good ſence can be thereof gathered; would that all her loving Subjects ſhould underſtand, that nothing was, is, or ſhall be meant or intended by the ſame Oath, to have any other duty, allegiance, or bond required by the ſame Oath, than was acknowledged to be due to the moſt noble Kings of famous memory, K. Henry *the* 8. *her Majeſties Father, or* K. Edward *the* 6. *her Majeſties Brother.*

And further, *her Majeſty forbiddeth all manner her Subjects, to give ear or credit to ſuch perverſe and malicious perſons, which moſt ſiniſterly*

ſiniſterly and malicioußy labour to notifie to her loving Subjects, how by words of the ſaid Oath it may be collected, that the Kings or Queens of this Realm, poſſeſſors of the Crown, may challenge authority and power of Miniſtry of Divine Service in the Church: wherein her ſaid Subjects be much abuſed by ſuch evil diſpoſed perſons; for certainly her Majeſty neither doth, nor ever will challenge any other authority than that was challenged and lately uſed by the ſaid noble Kings of famous memory, K. Henry *the Eighth, and K.* Edward *the ſixth,* **which is and was of ancient time due to the Imperial Crown of this Realm,** THAT IS, **under God to have the Soveraignty & Rule over all manner perſons born within theſe Realms, Dominions & Countreys, of what eſtate either Eccleſiaſtical or temporal ſoever they be,** SO AS **no other forreign power ſhall or ought to have any ſuperiority over them.** *And if any perſon that hath conceived any other ſence of the form of the ſaid Oath, ſhall accept the ſame Oath with this Interpretation, ſence or meaning, her Majeſty is well pleaſed to accept every ſuch in that behalf, as her good and obedient Subjects, and ſhall acquit them of all manner of penalties contained in the ſaid Act, againſt ſuch as ſhall peremptorily or obſtinately refuſe to take the ſame Oath.*

It is obſervable, that the Queen did thus explain and interpret the words of this Oath by her own authority. But whereas ſome might then object, as others have done ſince, upon the ſame occaſion, that the words of an Oath could not be warrantably interpreted from their ordinary ſence, and uſual acceptation, by any authority leſs than that of the Law-maker: Therefore the ſaid *Admonition* was confirmed by her ſaid Majeſty in Parliament, by the Statute 5. *Eliz. cap.* 1. wherein is this *Proviſo* as followeth.

Provided alſo, that the Oath expreſſed in the ſaid Act made in the ſaid firſt Year, ſhall be taken and expounded in ſuch form as is ſet forth in an Admonition annexed to the Queens Majeſties Injunctions publiſhed in the firſt Year of her Majeſties Reign; That is to ſay, to confeſs and acknowledge in her Majeſty, her Heirs and Succeſſors, none other authority than that was challenged and lately uſed by the Noble K. Henry *the* 8. *and* K. Edward *the* 6. *as in the ſaid Admonition more plainly may appear.*

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It is obſervable, that in vertue of this *Proviſoe* in the ſaid Statute, the aforeſaid *admonition* acquired the force of a Law as much as the *Proviſoe* it ſelf had, which refers to the ſaid *admonition*, and conſequently makes void in law whatſoever was formerly Enacted contrary to the ſame. So that from and after the ſaid Act 5. *Eliz.* the ſaid Oath (though pronounced in the form of words *verbatim*, as is expreſſed in the Act 1. *Eliz.*) yet the effect and tenour of the ſaid words muſt be conſtrued and underſtood in the *form*, and according to the *Interpretation, ſence and meaning*, as appeareth in the aforeſaid *admonition*. And whoſoever upon tender of the ſaid Oath unto him, if (when he ſhall have read or pronounced the words thereof (he do profeſs that he intends in ſwearing the ſame to mean thoſe ſaid words in no othet ſence, but according as the *admonition* aforeſaid doth ſet forth, No Officer whatſoever can preſſe him to ſwear it any other ways. Which being matter of Law the Learned in the Law can beſt reſolve, if any doubt be made thereof.

The next Enquiry ſhall be, if any thing be contained in the ſaid *admonition*, either in words or meaning, which a Conſciencious perſon, Proteſtant, or Roman Catholick can juſtly except againſt.

The Exceptions generally pretended againſt the ſame are, Firſt, That the ſaid Oath was purpoſely framed for profeſſion of Religion then newly eſtabliſhed. Secondly, That the *Soveraignty and rule* claimed by her Majeſty in the ſaid *admonition* is, over Eccleſiaſtical perſons, and in things and Cauſes Spiritual and Eccleſiaſtical, both which (ſay moſt of thoſe that except againſt the ſame) are exempted (*Jure divino*) from the power of the temporal Magiſtrate, and conſequently the King is in effect declared thereby to be Head of the Church. Thirdly, That the ſpiritual Power and Juriſdiction left by Chriſt to his Church, and the reſpective Paſtors of the ſame, is likewiſe abſolutely denyed therein. Theſe things being part of their Faith and Religion, they cannot ſwear without renouncing the

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ſame, and giving ſcandal to others of their profeſſion, which therefore ſhall be the ſubject of our next Obſervations.

1. The very words of this *admonition* do expreſs that the ſaid Oath was *preſcribed and required for recognition of Allegiance.*

2. The Latitude of meaning which might be contained in the words of the Oath, *viz.* (*Under God Supreme Governour, as well in all Spiritual and Eccleſiaſtical things and Cauſes as Temporal*) is reſtrained in this *admonition*, by theſe words, *viz. Her Majeſty neither doth nor ever will challenge any other authority than what was challenged and lately uſed by* Henry *the Eighth, and* Edward *the ſixth, which is and was of ancient time due to the Imperial Crown of this Realm.* And then it is particularly ſpecified what that authority was by the words of the ſaid *Admonition* immediatly following, *viz.* THAT IS *under God to have the Soveraignty and Rule over all manner of perſons born within thoſe her Realms, Dominions and Countreys, of what eſtate either Eccleſiaſtical or Temporal ſoever they be.*

3. Leſt by the ſaid Oath her Majeſty might ſeem to deny to the Church the Power and Juriſdiction left by Chriſt to his Apoſtles and their Succeſſors, being *meerly ſpiritual*, her Majeſty therefore profeſſeth not to challenge authority or power of Miniſtry of divine Service in the Church. And moreover reſtrains the denial of Spiritual and Eccleſiaſtical Juriſdiction, Power, *&c.* mentioned in the ſaid Oath (being in general) to ſuch Juriſdiction (only) as was *repugnant* to the ſaid Soveraignty and Rule over all her Subjects. Which is apparent by theſe words, *So as no other forreign Power ſhall or ought to have any Superiority over them.*] which words (SO AS) denote the reſt to be relative to her Majeſties *Superiority* and *Rule*, that immediately before was declared.

And in further proof thereof, Whereas the aforeſaid Act in the ſaid firſt Year of her Reign was entituled [*All ancient Juriſdictions reſtored to the Crown, and all forreign Power aboliſht,*] the Statute made in the fifth Year of her Reign, *Cap.* 1. ſeemed to qualifie or explain the ſaid former Act, for it entituled the ſaid former Act to be an Act *reſtoring to the Crown the ancient Juriſ-*

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diction over the ſtate Eccleſiaſtical and ſpiritual, and aboliſhing all forreign power REPUGNANT *to the ſame.* The alteration of the Title is very obſervable in this latter Act, for it ſeemed thereby to denote and explain that which in the heat of the then ſuddain change of Religion had not been ſo maturely diſgeſted and eſtabliſhed in the former.

The Articles of the Church of *England*, and of the Clergy, expreſs the Kings ſaid power and Authority by calling it the *civil* (not *ſpiritual*) ſword.

Doctor *Carleton* afterwards Biſhop of *Chicheſter* in his notable Treatiſe of **Juriſdictions Epiſcopal, Regal and Papal*, writes moſt learnedly and clearly upon this Subject. He ſayes *pag. 9.* "As for "ſpiritual Juriſdiction of the Church, ſtanding in Examination of "Controverſies of Faith, judging of Hereſies, depoſing of Here-"ticks, Excommunication of notorious and ſtubborn offenders, "Ordination of Prieſts and Deacons, Inſtitution and collation of "Benefices and Spiritual Cures, *&c. which Princes cannot give "nor take from the Church*, this power hath been practiſed by the "Church without coactive Juriſdiction other than of Excommu-"nication. But when matters handled in the Eccleſiaſtical Conſi-"ſtory are not matters of *Faith* and *Religion*, but of a *Civil* nature, "which yet are called *Eccleſiaſtical*, as being given by Princes, "appointed to be within the Cogniſance of that Conſiſtory, "and when the Cenſures are not *ſpiritual*, but *carnal*, *com-"pulſive*, *coactive*, here appeareth the power of the Civil Ma-"giſtrate,

"*Page* 42.43. It cannot be denyed, but that there is a Power "in the Church, not only internal but alſo of External Juriſdicti-"on. Of Internal Power there is no queſtion made, External Ju-"riſdiction being underſtood all that is practiſed in External Courts "or Conſiſtories, is either Definitive or Mulctative. Authority "Definitive in matters of Faith and Religion, belongeth to the "Church; Mulctative Power may be underſtood either as it is re-"ferred to ſpiritual Cenſures, or as it is with Coaction. As it ſtand-"eth in ſpiritual Cenſures, it is the right of the Church, as was pra-"ctiſed by the Church, when the Church was without a Chriſtian "Magiſtrate, and ſince. But Coactive Juriſdiction was never pra-

ctiſed

* In his Admonition to the Reader. *The Fathers write for the ſpiritual Juriſdiction of the Church above Princes*, which thing we never denied.

" ctiſed by the Church, when the Church was without Chriſtian " Magiſtrate, but was alwayes underſtood to belong to the Civil " Magiſtrate, whether he were Chriſtian or Heathen. *&c.*

" The Apoſtles did ſometimes take vengeance upon the diſobe- " dient, but that was not by the *Material* Sword, (*in the Power* " *whereof we place Coaction*) but by the *Spiritual* Sword.

The Learned Biſhop of *Derry*, late made Biſhop of *Armagh*, and honour'd with the Title of Lord Primat of all *Ireland*, ſpeaks moſt cleary to this Point, in his Book *Schiſm Guarded*, p. 160. " But I " expect it ſhould de Objected, that beſides theſe Statutes which " concern the Patronage of the EngliſhChurch, the Legiſlative, the " Judiciary, the Diſpenſative power of Popes, There are two other " Statutes made by *Henry* the Eighth, The one, *An Act for ex-* " *tinguiſhing the Authority of the Biſhop of* Rome: The other, *An* " *Act for eſtabliſhing the Kings Succeſſion in the Crown*; wherein " there is an Oath, That the Biſhop of *Rome* ought not to have any " Juriſdiction or Authority in this Realm. And that it is declared " in the 37th Article of our Church, that the Biſhop of *Rome* hath " no Juriſdiction in this Kingdom of *England*. And in the Oath or- " dained by Queen *Elizabeth*, That no forreign prelate hath, or " ought to have, any Juriſdiction or Authority, Eccleſiaſtical or " Spiritual within this Realm.

" I Anſwer this Objection three wayes, Firſt, As to the two " Laws of *Henry* the eighth, They are both repealed long ſince by " Queen *Mary*, and never were reſtored by any ſucceeding Prince. " If there were any thing blame-worthy in them, let it dye with " them. I confeſs I approve not the Conſtruing of one Oath for " another, nor the ſwearing before-hand to Statutes made or to be " made, But *de mortuis nil niſi bonum.*

" Secondly, I Anſwer according to the equity of my ſecond " ground, that although it were ſuppoſed, that our Anceſtors had " over-reached themſelves and the truth in ſome expreſſion; yet " that concerns not us at all, ſo long as we keep our ſelves exactly to " the line and level of Apoſtolical Tradition.

" Thirdly and principally I anſwer, that our Anceſtors meant " the very ſame thing that we do, our only difference is in the uſe of

" words, *Spiritual Authority or Juriſdiction*, which we underſtand " properly of authority and Juriſdiction, purely Spiritual, which ex- " tendeth no further then the Court of Conſcience. But by Spiri- " tual Authority or Juriſdiction, they did underſtand Eccleſiaſtical " authority and Juriſdiction in the Exterior Court, which in truth " is *partly Spiritual, partly Political.* So our Anceſtors caſt out *Ex-* " *ternal Eccleſiaſtical Coactive Juriſdiction.* The ſame do we. They " did not take away from the Pope *the Power of the Keys* or *Juriſ-* " *diction purely ſpiritual*; No more do we. And *p.* 119. We ac- " knowledge, that Biſhops were always eſteemed the proper Jud- " ges of the Cannons, both for compoſing of them, and executing " of them; but with this Caution, that to make them Laws the " confirmation of the Prince was required, and to give the Biſhop " a Coactive Power to execute them, the Princes Grant or Con- " ceſſion was needful. And *p.* 170. Whatſoever Power our Laws " did diveſt the Pope of, they inveſted the King with it. But they " never inveſted the King with any Spititual Power or Juriſdiction, " witneſs the Injunction of Queen *Elizabeth*, the Articles of the " Church, King *James*, our Statutes, *&c.*

" * In that Oath ONLY is contained the Kings abſolute Power, " to be Judge over all Perſons as well Civil as Eccleſiaſtical, exclu- " ding all forreign Powers and Potentates to be Judges within his " Dominions: And generally all Engliſh Proteſtant Writers who maintain the 39. Articles, with the Diſciplin and Cannons of the Churh of *England*, do conſtantly affirm.

*K. James Triplici nodo, triplex cuneus, p. 47.

That the Kings ſaid Supreme *Government* and *Rule* is intended no other ways but to exerciſe under God *the Supreme Coactive Juriſdiction and Power over all his Subjects within his Realms and Dominions, of what eſtate ſoever they be, whether Eccleſiaſtical or Temporal, to take cogniſance in his external Tribunals of offenders, for the puniſhing of them with civil and corporal puniſhments, according to the nature and quality of their reſpective offences*: And that Spiritual and Eccleſiaſtical things and Cauſes (the tranſgreſſors wherein are liable to his cogniſance and puniſhment as aforeſaid) are not meant of things and cauſes that are meerly ſpiritual, as of *Faith* and *Religion*, but of ſuch as in their own nature are either *civil or mixed with ſomething that is temporal*, which acord-

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ing to vulgar acceptation, are called nevertheleſs *Spiritual* or *Eccleſiaſtical*, for the reaſons noted by Doctor *Carleton* as aforeſaid.

This Supreme external Coactive power and Juriſdiction as aforeſaid, cannot be acknowledged to be due to the King, but by neceſſary conſequence all Power, Prerogative, Juriſdiction, Superiority or Authority repugnant to the ſame, muſt be denied and diſclaimed in any Prelate, Perſon, State, or Potentate, forreign or domeſtick whatſoever, other then by or under his Majeſties permiſſion or Authority.

But it is alſo obſervable, that what power or Juriſdiction ſoever that is but meerly Spiritual (and conſequently not belonging to the King) is not meant or intended to be denied or renounced to the Church, or to any Perſon Prelate *&c.* whatſoever, as the aforeſaid Biſhop of *Derry* moſt expreſly declares, in very many places of his Book aforeſaid, which for brevities ſake, are omitted, excepting theſe few hereunder mentioned, which may abundantly ſatiſfie. *Pag.* 62. *And therefore when we meet with theſe words, or the like,* That *No forreign Prelate ſhall exerciſe any manner of power, Juriſdiction, Superiority, Prehemimence or priviledge Eccleſiaſtical or Spiritual within this Realm; It is not to be underſtood of Internal or purely Spiritual power in the Court of Conſcience, or the power of the Keys (we ſee the contrary practiſed every day) but of external coactive power in Eccleſiaſtical cauſes,* in foro contentioſo, *&c.* And in his Epiſtle to the Reader, having ſet down all or the moſt conſiderable Points of difference and queſtion upon this Subject, concludes his ſaid Epiſtle with theſe words, *viz.* "The true controverſie "is, Whether the Biſhop of *Rome* ought by *Divine Right* to "have the external regiment of the Engliſh Church, and Co- "active Juriſdiction in Engliſh Courts, againſt the will of the "King, and Laws of the Kingdom. And *p.* 218. No dif- "ference between Roman Catholicks and our ſelves about the "Papacy, but only about the extent of papal power, *&c.*

To theſe may be added, that the Biſhop of *Spalato* that came into *England*, after his being conſecrated Biſhop by the Pope,

or by Authority from the See of *Rome*, did not renew his Character after he came over, yet (as is well known) ordained divers Priests here, which was never disputed, but allowed by the Church of *England* to have been validly done. All which confirms what is said before, That Jurisdiction purely spiritual is not denied by the now intendment of the said Oath, and that it is not an Oath of Religion, but of Allegiance, as is expressly said in Queen *Elizabeths Admonition* aforesaid, and obliges the takers to no more, but to assist and defend all the ancient Jurisdictions of the Crown, and to renounce and impugn all forreign Jurisdictions and Powers repugnant to the same. What those ancient Jurisdictions of the Crown were esteemed to be, may be observed by the Statutes of *Clarendon* the Statute of *Carlile*, the Articles of the Clergy, the Statute of Provisors, and other the Laws of our *Norman* Kings, and in the times of *Henry* the Third, *Edward* the First, *Edward* the Third, *Richard* the Second, *Henry* the Fourth, which Statutes and Laws had not so publickly passed, without a greater clamour of other Nations professing the same Religion, if the Popes pretended power in those respective mixed cases had been thought to have been *Jure divino*, or so undeniably his right, as some Divines do chalenge in his behalf.

But forasmuch as many Learned and Large Treatises have been written upon this Subject, of mixed Causes, as aforesaid both by Romane Catholicks, and Professors of the Reformed Religion of several Nations, and of each side some holding that they belong to the Kings Supreme Authority and civil sword, others that they belong only to the Church without any Concession from the temporal Magistrate.

For allay to the Scruples that may hereupon arise in the minds of any his Majesties Loyal Subjects, it may be observed, that since the Learned Doctors of both sides do respectively declare upon mature consideration of several Texts of holy Writ, Acts of Councils, and other reasons alledged, to have different

rent Sentiments therein, ſome of each ſide, holding the contrary to what others of the ſame profeſſion do ſtrongly maintain, but never determined by the Church:

The probability of their ſaid opinions may reſpectively warrant (if not obliege) all his Majeſties Subjects (eſpecially being ſo enjoyned by Law) to acknowledge ſubmiſſion to that external coactive Power and Authority of his Majeſty for the puniſhment of Offenders with civil and corporal puniſhments in ſuch mixed caſes, as aforeſaid, which their reſpective Teachers doe affirm to be juſtly derived from natural Reaſon, and clear places of Scripture, and aſſert them as part of his Royal Juriſdiction.

Our ancient Hiſtories, Statutes, and moſt authentick Records of former times, long before *Henry* 8th do teſtifie as aforeſaid, That our Kings did challenge a ſovereign, external, coactive Juriſdiction over all their Subjects, as aforeſaid in thoſe caſes, ſometimes indulging them to the Eccleſiaſtical Courts, and See of *Rome*, ſometimes reſtraining them again (of their own Authority, without recourſe to the Pope or See of *Rome*) more or leſs according to their zeal or devotion towards the Church and Church-men, and the reſpective occaſions in thoſe times, according as was then thought fit by our Kings and Parliaments. Read the Statutes of Proviſors, 25. of *Ed.*3.

The practice in *France* ſufficiently declares what that Kings Power is in the caſes aforeſaid: For although ſpiritual offences (that are meerly ſuch) are puniſhable in the Eccleſiaſtical Courts only by ſpiritual Cenſures as Excommunication, Suſpenſion, *&c.* Yet if the cauſe be mixed in any ſort with what is civil or temporal, as aforeſaid; or if never ſo little pecuniary Mulct be impoſed upon the offenders for damages by the Eccleſiaſtical Judges, the whole matter may be brought to the cognizance of the civil Court upon appeal, and the former ſentence reverſed, if it be thought fit: Nor does any Eccleſiaſtical Promotion or Dignity, how great ſoever, priviledge any perſon from civil and corporal puniſhments there, if he offend againſt the Kings Perſon, his Crown and Dignity, whereof we have an example of

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the now Arch-biſhop of *Paris*, under the moſt Chriſtian Kings, who is known to be moſt zealouſly devoted to the Church and See of *Rome*. And many other Preſidents of the ſame nature have been in *Hungary*, *Germany*, and other Countreys that hold communion with that Church.

The King of *Spain* exerciſes the like Authority in ſeveral places of his Dominions, and ſo amply in his Kingdom of *Sicily*, that it is there called, *Supreme Spiritual Authority*, and *ſpiritual Monarchy*, as is acknowledged by the Catholick Divine in his Anſwer to the fifth part of Sir *Edward Cookes* Reports, *pag.* 102. which words *Supreme Spiritual Authority*, and *Spiritual Monarchy* ſound as harſh, and require a favourable explanation, no leſs than any the words in Queen *Elizabeths* Oath aforeſaid. He ſays indeed, "That Pope *Urbane* grant-"ed the ſame long time ſince to that Kings Predeceſſours, as "Pope *Nicolas* ſomewhat of the like nature to St. *Edward* King "of *England*.

But meer ſpiritual Juriſdiction (as is conceived) could not be granted to a Lay perſon. And our Queſtion being of the original right of our Princes to ſupream, external, coactive Juriſdiction over their Subjects to take cognizance of offenders in ſuch mixed caſes, as aforeſaid, for puniſhing them with civil and corporal puniſhments according to the reſpective quality of their offences, which (indeed) is no other but a civil and temporal power, though the ſaid caſes be vulgarly called *Spiritual* for the reaſons declared as aboveſaid, he ought to have told us how the Pope came to be inveſted with ſuch coactive power by force of Law and corporal puniſhments, which he ſo granted away unto others.

Chriſt ſaid, *His Kingdom was not of this world*. The Apoſtles, claimed no ſuch coactive power, by force of Law, and corporal puniſhments, as aforeſaid, nor any the aforeſaid exemption of their perſons or goods from the temporal Magiſtrate and his Tribunals. The Church (as the ſaid Catholick Divine confeſſes) had no ſuch power for ſeveral Ages, the Emperour *Conſtantine* was the firſt that granted it, who did it (to uſe his words) *voluntarily*

rarily. And other Kings and Princes, *upon their ſingular devotion, and in imitation of that good Emperour.*

And doth not all this plainly ſignifie, that the External Coactive power (ſuch as aforeſaid) was originally in the Supreme temporal Magiſtrate? whoſe ſaid Supreme power (as moſt Learned men do affirm) cannot bind and conclude it ſelf in a Law, ſo as not to be able to revoke or alter the ſame when there is juſt cauſe, for preſervation of its being, and general good of the Common-wealth (otherways) in imminent danger. And conſequently howſoever Cannon Laws and Decretals have been ſometimes received by permiſſion or conceſſion of our Kings alone, or Parliaments of our Nation, and in virtue of ſuch reception (and not otherwiſe) matriculated among our Laws, yet according to the Preſident of many of our Kings and Parliaments long before King *Henry* the Eighth, the ſame might be *validly* reſtrained or made void to this Nation, ſo farre as to the nature of a Law, if our ſaid Kings and Parliaments conceived it neceſſary for thoſe reaſons as aboveſaid. Whether the ſame was well or ill done by them, or whether the cauſes were ſufficient or not, in the reſpective occaſions, the doers were anſwerable in conſcience, not their Subjects who were bound to yield obedience to their Soveraign power, in what things ſoever were not purely Spiritual, or repugnant unto the written Law of God.

Since therefore it is moſt apparent, that Spiritual Authority (it ſelf) is not denyed by the intendment of this Oath explained by the Admonition and declared as aforeſaid (which is otherwiſe then the aboveſaid Catholick Divine did underſtand it to be; but only the enlargement of Spiritual Authority to temporal coaction (ſuch as aforeſaid,) which (in reality) alters its nature, and is repugnant to the prerogative Royall of this Crown, and which indeed the Court of *Rome* (*not the Church of Rome*) and ſome Divines moſt eſpecially depending upon the ſame would

would extend the ſaid ſpiritual power unto, but *Jure Divino*, but was not ſo *ab initio*, as manifeſtly appears by what is aboveſaid.

Why ſhould any his Majeſties Loyall Subjects (Romane Catholicks eſpecially) deny to acknowledge their dutiful ſubmiſſion to his Majeſties ſaid Soveraignty and Rule over all his Subjects, and their like obedience to maintain Laws eſtabliſhed, ſo farre as they relate to his ſaid Authority in ſuch manner as above-declared; Whereas not only the Opinions of many of the moſt Learned Writers of their own Religion doe maintain, That External Coaction by force of Law, and civil and corporal puniſhment upon offenders of what quality ſoever, and for what matter or cauſe ſoever ſo deſerving, as aboveſaid, is of natural right belonging to the Supreme Temporal Magiſtrate, But alſo, the practiſe of our Kings and Parliaments in former Ages (time out of mind) as alſo the preſent practiſe of other Kings and Countreys, that (nevertheleſs) hold Communion with the Pope and Church of *Rome*, do authoriſe and approve the exerciſe of the ſame, according to emergent occaſions, by the ſaid Supreme temporal Magiſtrate, in manner as aboveſaid.

Let them not therefore give juſt advantage to their adverſaries in Religion, to preſs againſt them the continuance of the penal Statutes, by objecting that what they ſuffer is upon ſuſpition of a dangerous dependency upon a forreign ſtate, but not for any Doctrine or point of Religion, which their Church hath declared to be of Faith.

The unlimitted power, and immoderate attributes given to Popes by Cannoniſts, and ſome other Writers of eminent Authority of that ſide, together with the violent proceedings of ſome Popes thereupon, have been principally the occaſion, that the ſaid Oath hath been ſo ſtrictly urged againſt the Roman Catholicks; and hath chiefly cauſed the general averſion of all others here from Communion with

with that See, and by the over-bold assertions of such Writers, that some of their said Opinions were *De Fide*, it hath been instilled (though not with truth) into the minds of most of the people of this Nation, That whosoever holds Communion with the Church of *Rome*, must necessarily be principled according to their said Tenets. Which caused his Majesty King *James* (and others so conceiving) to think that the aboveſaid Oath was purposly framed to make distinction between Protestants and Roman Catholicks, who chiefly upon this score were all promiscuously called Papists, and so severe Laws Enacted against them in Queen *Elizabeths* time and since. Bp of *Derry's Schism Garded. Page* 176. "It is true "there are other differences between us, but this is the main "difference that giveth denomination to the Parties.

But the truth hereof ought (if but in charity) to be further enquired into by all conscientious men, especially by those in Authority.

For many of the Roman Catholicks of these Nations (nay most of the most knowing among them) do profess, against such over-bold assertions, such immoderate attributes, such unlimitted powers and practices, as much as any Protestants whatsoever. And although they hold Communion with the Church of *Rome* in *spiritualibus*, and acknowledge (as their Ancient Forefathers did) that the Pope is the Supreme Spiritual Pastor (which the Bishop of *Derry* sayes is not medled with one way or other in the intendment of this Oath, so it be but in spirituals. And his Royal Majesty King * *James* could be content that the Bishop of *Rome* were *Patriarch of the West, and were the first Bishop among all Bishops, and* Princeps Episcoporum, *so as he be no otherwise then as* Peter *was* Princeps Apostolorum.) Yet the said Roman Catholicks do not hold it as a part of their faith, that the Pope is infallibly free from Error, or that he can absolve Subjects from their obedience to their natural Prince, or from the Obligation of faithfull upright dealing with their neighbours, though such their Prince or Neighbour be not of their Religion, or were Ex-

* *Apol.* for the Oath of Allegiance, p. 46.

 communicated,

communicated, or what more the Pope could do by himſelf, or with any other, againſt them for that cauſe. And all this (ſay they) they will chearfully teſtifie upon their Oaths, without equivocation or mental reſervation; if an Oath in clear terms expreſſing as aforeſaid be tendred unto them.

It is not the true meaning of the Oath explained in manner as aboveſaid, which makes many of them refuſe to take the ſame; but there being an Oath made ſince, and called the Oath of Allegiance, makes them apprehend, that ſomething more than meer Allegiance is contained in the former. And beſides the latitude of the words in this Oath (at which many Proteſtants alſo ſtick) which words are not explained but by the admonition as aforeſaid, and that admonition again not cleared, but by the Writings of Learned Doctors, and then authoriſed by the Proviſo 50 *Eliz.* and the force of that Proviſo to be reſolved by the Learned Men in the Law. Theſe particulars (not known to many, and ſo intricate in themſelves) and above all, the conſtant tendring of the ſaid Oath for ſo many years paſt, without the aforeſaid explanation. Theſe things I ſay have made it to be firmly believed by them, and thoſe of their profeſſion over all Chriſtendome, that in taking the ſaid Oath, with what explanation ſoever (if ſuch explanation be not as publickly made known and declared) they give juſt ſcandal (which is *Malum in ſe*) that they renounce their Religion: as indeed the common acceptation of the words of the ſaid Oath do import no leſs.

And ſince the ſaid Roman Catholicks have been ſo Loyal to his Majeſty, not one having drawn Sword againſt him in the late Rebellion, ſo many of them having loſt their lives and eſtates, and endured ſtrict Impriſonment and great hardſhip for his cauſe, and rendred eminent ſervices in the late Wars even to the preſervation of his moſt *Sacred Perſon.*

It ſeems but very reaſonable what is generally deſired by them, *viz.* that the Oaths required of them under ſo great penalties, may be cleared of thoſe doubtful expreſſions in them which

which cauſe their ſcruples as aforeſaid, or a new Oath to be compiled in clear terms, whereby not only they, but alſo many Proteſtants who likewiſe ſcruple at the words of the ſame, may (to the entire ſatisfaction of his Majeſty and the Nation) fully teſtifie the Allegiance and Fidelity of faithful Subjects, and true Patriots, and no longer remain (as generally they now do) diſtruſted, and ſubject to much obloquy, and in an incapacity to ſerve their King and Country, (notwithſtanding the indulgence generally afforded to tender Conſciences, though of different perſwaſion from the Tenets of the Church of *England*,) and all this upon no other ſcore, but of being thought otherwiſe principled then what their ſaid late actions have approved them to be, and what they now offer to profeſs upon their Oaths, which is the greateſt ſecurity that can be given in teſtiomony of a mans intention, and as much as ſatifies in the like caſe of ſuſpition, from thoſe that have fought, *&c.* againſt his Majeſty, and been his moſt bitter enemies.

FINIS.